IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24287 of 2004

Between:

N. Basava Rao, S/o. Late Venkateshwara Rao,
R/o. Near New Bus Stand, Suryapet, Nalgonda district.

..... PETITIONER

AND

1 The Divisional Manager, APSRTC, Nalgonda Division, Nalgonda.
2 The Depot Manager, APSRTC, Bus Depot, Suryapet, Nalgonda.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ or direction particularly one in the nature of WRIT OF CERTIORARI, quash the impugned Proc.No.02/104(195)/81-SRPT dt. 22-05-1981 as confirmed by the 1st respondent vide Proc.No. PA/19(35)/95-RM.NLG dt. 28-09-1996 and consequently direct the respondents to restore the deferred increments along with all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the admission stage, made the following:

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24287 of 2004

ORDER:

The petitioner is working as a conductor in the respondent-Corporation. He was issued a charge memo on 02-04-1981 and after receiving the explanation of the petitioner, the final orders were passed on 22-05-1981 imposing the penalty of withholding of one incremental stage for a period of one year and six months with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of annual increment with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the order is illegal and it is liable to be set aside.

2. The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**[1] wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 23 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside, on account of long lapse of time in filing the writ petition and in view of the judgment of the Supreme Court in **Kulwant Singh** Gill (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of annual increment for a period of one year and six months without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of annual increment for one year and six months without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations.

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December 27, 2004

Kvr

To

1. The Divisional Manager, APSRTC, Nalgonda Division, Nalgonda,
2. The Depot Manager, APSRTC, Bus Depot, Suryapet, Nalgonda,

3. 2 C.D copies.